1 Lien L. Uy (SBN: 249014) Uy Law Group 2 436 14th Street, Suite 1213 Oakland, CA 94612 3 (510) 893-3294 (Tel) 4 (510) 260-2652 (Fax) 5 Attorney for Debtor 6 William Kwok Wai Wong 7 8 UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF CALIFORNIA 9 OAKLAND DIVISION 10 11 In re William Kwok Wai Wong aka Kwok BK No.: 13-41150 12 Wai Wong, aka William Wong 13 ADV. No.: 13-04114 Debtor 14 Chapter 7 15 DEFENDANT'S ANSWER TO Ning Liu COMPLAINT TO DETERMINE 16 DISCHARGEABILITY OF DEBT Plaintiff. 17 STATUS CONFERENCE: Date: September 10, 2013 18 Time: 1:30 pm Place: 1300 Clay Street, Room 201 William Kwok Wai Wong aka Kwok Wai Wong, aka William Wong, 19 Oakland, CA 94612 Defendant. 20 21 22 Defendant answers Plaintiff's Complaint as follows: 23 1. Defendant admits allegations 1, 4, 6, 7, and 19. 24 2. Defendant has insufficient information and/or belief regarding the allegations 2, 3, 5, 8, 9, 25 26 10, 11, 14, 16, 17, 18, 20, 23, 24, 26, 28, and 35 and on that basis denies said allegations. 27 1 28

DEFENDANT'S ANSWER TO COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT

3. Defendant denies allegations 12, 13, 15, 21, 22, 25, 27, 29, 30, 31, 32, 33, and 34. Further, as separate affirmative defenses to each and every claim for relief of the complaint, this Answering Defendant is informed and believes, and on such information and belief alleges as follows:

#### FIRST AFFIRMATIVE DEFENSE

The Complaint on file therein fails to state facts sufficient to constitute each and every cause of action under 11 USC §523(a)(2)(A) and 11 §532(a)(6) against the answering Defendant.

# **SECOND AFFIRAMTIVE DEFENSE**

The breach of contract portion of the judgment entered in Superior Court case no. RG08421861 in the amount of \$311,000 is not subject to nondischargeability under 11 USC \$523(a)(2)(A).

## THIRD AFFIRMATIVE DEFENSE

The Complaint on file therein fails to establish the collateral estoppel effect of the state court judgment regarding intentional infliction of emotional distress, fraud, and punitive damages to determine nondischargeability under 11 USC §523(a)(2)(A) and 11 §532(a)(6).

# FOURTH AFFIRMATIVE DEFENSE

The award of punitive damages in the amount of \$410,000 in the state court judgment does not constitute proof of malicious injury under 11 USC §523(a)(6).

#### FIFTH AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiff is barred from seeking the relief requested in the complaint under the equitable doctrines of waiver, estoppel and unclean hands.

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#### **SIXTH AFFIRMATIVE DEFENSE**

Defendant alleges that if there presently exists or ever existed any or all of the alleged rights, claims or obligations which Plaintiff seeks in the complaint, each and every cause of action in the complaint is barred by the Statute of Limitations.

## **SEVENTH AFFIRMATIVE DEFENSE**

Defendant alleges that if there presently exists or ever existed any or all of the alleged rights, claims or obligations which Plaintiff seeks in the complaint, each and every cause of action in the complaint is barred by the Statute of Frauds.

# EIGTH AFFIRMATIVE DEFENSE

Defendants allege that Plaintiff was under a duty to minimize the damages, losses, and claims complained of, if any there were, and Plaintiff has failed to minimize such damages, losses, and claims, and by reason of such failure, has increased its damages, losses, and claims complained of, and Plaintiff is not entitled to recover therefore.

#### NINTH AFFIRMATIVE DEFENSE

The answering Defendant is informed and believe and on that basis allege that Plaintiff's conduct concerning the matters alleged in the Complaint constitutes carelessness, negligence, misconduct, and/or bad faith, or Plaintiff was otherwise at fault, and the resulting injuries, if any, sustained by Plaintiff were proximately caused and contributed to, in whole or in part, by the conduct of Plaintiff and Plaintiff's recovery, if any, should thereby be reduced in proportion to this fault.

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#### TENTH AFFIRMATIVE DEFENSE

If Plaintiff suffered any losses, damages, injuries, and/or harm, such losses, harm, damages and/or injuries were proximately caused, contributed to and/or initiated by persons and/or entities other than the answering Defendant, and the liability of all defendants named or unnamed, should be apportioned according to their relative degrees of fault, and the liability, if any, of the answering Defendants should be reduced accordingly.

### **ELEVENTH AFFIRMATIVE DEFENSE**

Defendants presently have insufficient knowledge or information on which to form a belief as to whether they may have additional, as yet unstated, affirmative defenses available. Defendants reserve the right to assert additional defenses in the event that discovery indicates that they would be appropriate.

## TWELFTH AFFIRMATIVE DEFENSE

The Complaint on file therein fails to establish the collateral estoppel effect, if any, of the \$800,000 punitive damages portion of the 2<sup>nd</sup> claim pending trial as there is no final judgment on the merits.

WHEREFORE, Defendants prays as follows:

- 1. That Plaintiff take nothing by reason of its complaint, and that judgment be rendered in favor of Defendant;
- 2. That Defendant be awarded costs of suit incurred in the defense of this action; and
- 3. For such other and further relief as the court deems just and proper.

UY LAW GROUP Dated: June 26, 2013 /s/ Lien L. Uy Lien L. Uy, Esq. Attorney for Defendant William Kwok Wai Wong 

DEFENDANT'S ANSWER TO COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT

1	PROOF OF SERVICE	
2	I, Alison Ma, declare:	
3	I am over the age of 18 and not a party to the within action; my address is 436 14 <sup>th</sup> Street, #121	
4	Oakland, CA 94612. I served the within the legal document(s) on the following person(s) on the	
5	date set forth below as follows:	
6		
7	Documents Served:	DEFENDANT'S ANSWER TO COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT
9 LO L1	Persons Served:	Stephen Benda Law Offices of Stephan Benda 750 Menlo Avenue, #350 Menlo Park, CA 94025-4759
L2	Date Served:	June 26, 2013
L3 L4	$\underline{X}$ BY MAIL: I served the within legal documents by placing a true copy thereof enclosed in	
L5	sealed envelope with postage thereon fully prepaid, in the United States mail at Oakland, CA.	
16	BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the office(s	
L7 L8	of the addressee(s).	
L9	BY FAX: I caused a copy of such document to be sent via facsimile to the office(s) of the	
20	addressee(s).	
21	I declare under penalty under the laws of the State of California that the foregoing is true and	
22	correct.	
23		
24	Executed at Oakland,	California on June 26, 2013
25		<u>/s/ Alison Ma</u>
26		Alison Ma
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DEFENDANT'S ANSWER TO COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT